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III. CRIMINAL CODES AND LAWS GOVERNING COUNTERREVOLUTIONARY ACTIVITIES

671 Although the establishment of a criminal and civil code is assigned to the Commission on Codification under the Government Administration Council, to date no report has been made by the committee. However, decrees and orders concerning counter-revolutionary activities have been issued by all levels of government.

A. Criminal Code

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694 A decree promulgated by the chairman of the People's Republic of China in December 1954 explained the procedure for arrest and detention.²⁹ As a rule, arrests must first be approved by the People's court or by the People's procuratorates, and before making an arrest, public security agencies must obtain a warrant from the People's Procuratorate. However, there are circumstances under which immediate arrests can be made. These exceptions, in fact, grant the security agencies more power than the decree would suggest. For example, persons who are unable to establish their place of residence

29. People's Daily, Dec. 21, 1954, p. 1.

671 are subject to immediate arrest. It is true
694 that certain provisions in the decree guarantee
each individual the right to demand a warrant,
a minimum period of detention, and an early
and rapid trial; nevertheless, at least two
factors minimize the value to the individual
of these provisions -- warrants for arrests
are not always obtain^{ed} by security agencies,
and exceptions to these provisions are allowed
to facilitate the arrest of counterrevolutionaries.

687 Apart from those decrees relating to
the punishment of counterrevolutionaries,
discussed below, other orders that may be
singled out for discussion include the decree
on the safekeeping of confidential information³⁰
and that implemented in cases involving the
violation of laws concerning national currency.³¹
Since "confidential material" is loosely defined
by the Communists, the "unlawful disclosure"
of any information whatsoever can be regarded
as a crime. "Confidential information"
includes not only national security and military
matters in the usual sense, but also any data
relating to economic and financial affairs,
transportation conditions, and matters of a

30. Yangtze Daily, June 11, 1951, p. 1.

31. Ibid., April 28, 1951, p. 4.

627 If a thief is killed while entering a house the householder is guiltless ; but should he be killed after escaping a hundred yards or so, the killer may suffer for it. Sometimes a thief is killed first and the hole to enter the house is made afterwards. Sometimes a corpse is carried on to another man's land to get him into trouble. One who lends a knife for a murder may be convicted of murder.

Presenting petitions or indictments.

647 There are official, appointed copyists who prepare and stamp nearly all documents going to the official.

694 The *hung ping* (紅 稟), red petition, is a statement of public business, used in government circles only and costing only the price of the paper, since the government employees may write their own statements.

694 The *pai ping* (白 稟), petition on white paper, is used by headmen or heads of bureaus in notifying business to the official.

The *hung pai ping*, red and white petition ; if the official keeps the red and returns the white it means approval, the reverse means that trouble may be looked for.

A petition has to pass through the hands of eighteen persons before reaching the magistrate, and as many more afterwards before it reaches the archives.

There are men who live by stirring up strife and lawsuits ; they are called *sung kun* (訟 棍), pettifoggers, *ch'ien kou Chiang* (牽 狗 匠), dogleaders, and other names.

The *yüan kao* (原 告), plaintiff, formerly paid some 3,200 cash official fees and the *pei kao* (被 告) an indefinite amount to the runners.

Eyewitnesses, *kàn chêng* (干 證), are named in the indictment, but only after getting their consent.

An indictment or petition must be written on special, lined paper, *ta kê shih* (大 格式), holding some 120 characters ; it costs from 100 to 300 cash according to the official. A smaller sheet may be used by the poor. The magistrate keeps a copy, *fu chuang* (付 狀), for reference, if necessary, after he has left the district.

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A suit may often be stopped, *lan lin* (攔留), by payment of money even after the indictment has been written. In family quarrels this is common, even in life and death cases, as a mother-in-law beating to death her daughter-in-law.

Sometimes one goes straight to the magistrate and calls for redress of a grievance; he must come out or send a deputy; but the usual result is an order to present an indictment.

A first petition being rejected the litigant may try again, altering what the magistrate has objected to, adding necessary witnesses, etc.

Before going to a higher court there are eight ways in which a litigant may appeal to an official against his decision. Sending up documents to a higher court costs a great deal of money, both to the official and to the yamen bureaus.

Tzū kao (自稿) is a plea written by the petitioner himself; the language is generally forcible and the copyist adds these two characters.

Tzū ch'o (自戳) means stamped by himself. Sometimes a hand or a foot, but usually only the thumb, is put in the ink. The magistrate dreads such cases, for the petitioner will only be satisfied with a decision in his favor, and an appeal to a higher court is probable.

Sometimes litigants are requested to put thumbmarks to a document declaring each side will accept the magistrate's decision and end the case.

When a magistrate is about to leave, cases are sometimes withdrawn, *ch'ou an* (抽案), for fear he should unduly hasten a decision or should leave them undecided to a successor who may shelve them.

Signs of Authority, Followers, etc.

When the magistrate is judging a case a duplicate of the seal box is hung behind him. A jar of bamboos stands on the table; if he throws down one tally, it means a hundred blows; if he tumbles out all the tallies it means unlimited beating. There are other tallies for other uses; and there is

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